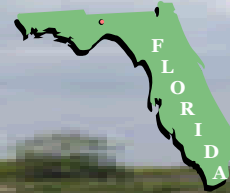


Fact Sheet

What Farmers Want to Know...

Agricultural Activities in Wetlands Exempt from Section 404 of the Clean Water Act

February 2004



Wetlands provide some of the most diverse and productive habitat for fish and wildlife. Wetlands help control floodwaters, improve water quality and recharge aquifers.



photo courtesy of University of
Florida Center for Wetlands

Section 404 of the Clean Water Act (CWA) requires a landowner to obtain a permit from the U.S. Army Corps of Engineers (Corps) for any non-exempt activity involving the placement of dredged or fill material in waters of the United States, including wetlands. Certain farming practices in wetlands do not require a permit. In order to be exempt, the activities must be part of an ongoing farming operation, and cannot be associated with bringing a wetland into agricultural production or converting a wetland to a non-wetland area.

You do not need a Section 404 permit to conduct the following activities on wetlands which are currently used for cropland, pasture, hayland, or production of other agricultural products.

Plowing

You may use all forms of primary tillage (including moldboard, chisel or wide-blade plowing, disking, harrowing and related tillage operations) that you normally use for preparing a seedbed to plant crops or tree seedlings. Plowing does not include the redistribution of surface material by blading, grading, shaping or other means to fill in wet areas.

Seeding

You may sow seed and plant seedlings to produce crops on established agricultural fields. You may also create soil beds for seeds and seedlings on established agricultural fields.

Cultivating

You may disturb the soil surface by using a cultivator, hoe or other similar implement to reduce competition from undesirable plants and to improve the growth, quality or yield of agricultural crops.

Harvesting

You may gather crops from established agricultural fields by using combines, balers and other similar equipment

Cropping Pastured/Hayed Wetlands

You may crop pastured or hayed wetlands as long as you do not remove woody vegetation or modify the existing drainage.

Maintenance of Drainage Systems¹

You may mow ditchbanks, clean out on-farm ditches, replace subsurface tile, repair water control structures and replace culvert pipes so that the drainage system continues to function as it was originally designed. However, you may not perform maintenance to increase drainage effectiveness beyond the original scope and design. The term "maintenance" does not include the drainage of wetlands for the purpose of bringing new areas into agricultural production, nor does it include the restoration of drainage systems in wetlands.

Construction of Ponds Required for Farming¹

You may construct a pond on your farm for the purpose of providing livestock water, irrigation water or fire protection if (1) the pond is not placed in a perennial or intermittent stream, and (2) the size and location of the pond is commensurate with the water needed to support the principal farming operation.

Maintenance of Ponds Used in Farm Operations¹

You may remove accumulated sediment and repair/replace the dam and principal spillway of an existing pond. Maintenance does not include any modifications to the original design that would change the size or purpose of the pond, or results in changes to wetlands upstream or downstream of the pond.

Construction of Farm Roads¹

You may construct new roads (lanes) through wetlands on your farm to access existing agricultural fields. The number, width and location of farm roads must be consistent with the agricultural use of the property, and best management practices (BMPs) must be used in designing, constructing and maintaining these roads. A complete listing of requirements is available from the Corps.

Note: Before starting any activity in wetlands, be sure to check on state and local government regulations. In order to maintain your USDA program eligibility you should check with your local Natural Resources Conservation Service (NRCS) office and complete form AD-1026 at the local Farm Service Agency (FSA) office during the planning phase, prior to beginning an activity.

¹ Dredged or fill materials may only be placed in non-wetlands (NW) or prior converted cropland (PC) areas.